

OPINION
45-81

June 12, 1945 (OPINION)

DRAINAGE DISTRICTS

RE: Organization of

This office is in receipt of your letter under date of May 31, 1945. I have delayed in answering it on account of absence from the city after receipt of the letter. You say in your letter that Messrs. Croal, Spalding, Covert, and Sandback from Cass County appeared before the state water conservation commission at its last meeting and requested permission to advance moneys for the organization of drainage districts. I assume that such moneys would be advanced from the funds made available by the commission on a so-called matching basis.

I also assume that the petitioners requesting the formation of a drainage district and the construction of a drain therein would be required to file a bond in conformity with section 61-2112 the proceedings for the construction of a proposed drain are discontinued then the petitioners would be required to pay the expenses incurred by the drainage board in connection therewith.

It is undoubtedly the purpose of the Cass County representation to provide for the current payment of expenses incurred by the board of drainage commissioners instead of delaying payment until moneys have been made available by petitioners for a drain under the bond required of them in the event drainage proceedings are discontinued.

It was the intention of the legislative assembly that the state water conservation commission should in every way legally possible facilitate the establishment of drainage districts and the construction of drains in the counties of the Red River Valley. It is my opinion that the funds advanced by the commission may be used for this purpose provided provision is made for the repayment thereof in case drainage proceedings are discontinued. The board of drainage commissioners should, by proper resolution, agree to collect from petitioners, in the event a drain is discontinued, the amount advanced and paid for the organization of a drainage district and for the establishment of a drainage system therein, and the drainage fund should be reimbursed from such collections.

The bond which you have submitted for the approval of this office is the usual form filled by petitioners for a drain. In my judgment it is sufficient.

NELS G. JOHNSON

Attorney General